

111TH CONGRESS  
1ST SESSION

# H. R. 3114

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IN THE SENATE OF THE UNITED STATES

JULY 8, 2009

Received

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## AN ACT

To authorize the Director of the United States Patent and Trademark Office to use funds made available under the Trademark Act of 1946 for patent operations in order to avoid furloughs and reductions-in-force, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. AUTHORITY OF PTO DIRECTOR TO USE TRADE-**  
2 **MARK FUNDS.**

3 (a) AUTHORITY.—

4 (1) IN GENERAL.—The Director of the United  
5 States Patent and Trademark Office—

6 (A) may use funds made available for fis-  
7 cal year 2009, pursuant to section 31 of the  
8 Trademark Act of 1946 (15 U.S.C. 1113),  
9 under the heading “Department of Com-  
10 merce—United States Patent and Trademark  
11 Office—Salaries and Expenses” in title I of di-  
12 vision B of the Omnibus Appropriations Act,  
13 2009 (Public Law 111–8), up to \$70,000,000,  
14 to support the processing of patents and other  
15 activities, services, and materials relating to  
16 patents, notwithstanding section 42(c) of title  
17 35, United States Code; and

18 (B) notwithstanding any other provision of  
19 law, shall, upon the exercise of the authority  
20 under subparagraph (A), establish a surcharge,  
21 in amounts up to \$70,000,000, on patent fees  
22 in effect under title 35, United States Code, to  
23 repay any funds drawn down pursuant to sub-  
24 paragraph (A),

25 if the Director certifies in writing to the Congress  
26 that the use of the funds described in subparagraph

1 (A) is reasonably necessary to avoid furloughs or a  
2 reduction-in-force, or both, in the United States Pat-  
3 ent and Trademark Office, and does not create a  
4 substantial risk of a furlough or reduction-in-force of  
5 personnel working in the Trademark Operation of  
6 the United States Patent and Trademark Office.

7 (2) SURCHARGES DEPOSITED IN TREASURY.—  
8 All surcharges paid under paragraph (1)(B) shall be  
9 deposited in the Treasury as an offsetting receipt  
10 that shall not be available for obligation or expendi-  
11 ture.

12 (b) LIMITATIONS ON AUTHORITY.—The authority  
13 under subsection (a)(1)(A) shall terminate on June 30,  
14 2010. The surcharge established under subsection  
15 (a)(1)(B) shall take effect no later than September 30,  
16 2011, and all funds drawn down pursuant to subsection  
17 (a)(1)(A) shall be repaid pursuant to subsection (a)(1)(B)  
18 no later than September 30, 2014.

19 (c) DEFINITIONS.—In this section:

20 (1) DIRECTOR.—The terms “Director of the  
21 United States Patent and Trademark Office” and  
22 “Director” mean the Under Secretary of Commerce  
23 for Intellectual Property and Director of the United  
24 States Patent and Trademark Office.

Attest: **LORRAINE C. MILLER,**  
*Clerk.*